

ACTION

made and communicated to the recipient. If a volunteer's term of service expires after receipt by a sponsor of a tentative decision not to refund a project, the period of service of the volunteer may be similarly extended. No volunteers may be reenrolled for a full 12-month term, or new volunteers enrolled for a period of service while a tentative decision not to refund is pending. If program operations are so extended, ACTION and the recipient shall provide, subject to the availability of funds, operating funds at the same levels as in the previous budget period to continue program operations.

[50 FR 42025, Oct. 17, 1985]

§ 1206.2-5 Right to counsel.

In all proceedings under this subpart, whether formal or informal, the recipient and ACTION shall have the right to be represented by counsel or other authorized representatives, at their own expense.

PART 1207—SENIOR COMPANION PROGRAM

Subpart A—General

Sec.

- 1207.1-1 Purpose of the program.
- 1207.1-2 Definitions.
- 1207.1-3 Coordination.

Subpart B—Project Development and Funding

- 1207.2-1 Inquiries.
- 1207.2-2 Local support.
- 1207.2-3 Sponsor eligibility and solicitation of proposals.
- 1207.2-4 Project proposals.
- 1207.2-5 Review of project proposals.
- 1207.2-6 Awards.
- 1207.2-7 Grand management.
- 1207.2-8 Suspension, termination and denial of refunding.

Subpart C—Project Operations

- 1207.3-1 Sponsor responsibility.
- 1207.3-2 Project staff.
- 1207.3-3 Advisory Council.
- 1207.3-4 Volunteer station responsibility.
- 1207.3-5 Senior companions.
- 1207.3-6 Senior companion assignments.
- 1207.3-7 Non-stipended volunteers.

Subpart D—Non-ACTION Funded Projects

- 1207.4-1 Memorandum of agreement.

§ 1207.1-2

Subpart E—Sanctions and Legal Representation

- 1207.5-1 Special limitations.
- 1207.5-2 Legal representation.

AUTHORITY: Secs. 211(d), (e); 212, 213, 221, 222, 223, 402(14) and 420 of Pub. L. 93-113, 87 Stat. 402, 403, 404, 407 and 414, sec. 213 of Pub. L. 97-35, 97 Stat. 487, 42 U.S.C. 5011 (b), (d) and (e); 5012, 5021, 5022, 5023, 5042(14), 5060 and 5013.

SOURCE: 48 FR 26803, June 10, 1983, unless otherwise noted.

Subpart A—General

§ 1207.1-1 Purpose of the program.

The Senior Companion Program (SCP) is authorized under title II, part C, of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93-113). The dual purpose of the program is to create part-time stipended volunteer community service opportunities for low-income persons aged 60 and over, and to provide supportive person-to-person services to assist adults having exceptional needs, developmental disabilities or other special needs for companionship.

§ 1207.1-2 Definitions.

Terms used in this part are defined as follows:

Act is the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93-113, 87 Stat. 394, 42 U.S.C. 4951).

Adult is any person aged 21 or over.

Advisory Council is a group of persons formally organized by the project sponsor for the purpose of advising and supporting the sponsor in operating the project effectively.

Agency is the federal ACTION agency.

Allowable medical expenses are annual out-of-pocket expenses for health insurance premiums, health care services, and medications provided to the applicant, enrollee, or spouse and were not and will not be paid for by Medicare, Medicaid, other insurance, or by any other third party and, shall not exceed 15 percent of the applicable ACTION income guideline.

Annual income is counted for the past 12 months and includes: The applicant or enrollee's income and, the applicant or enrollee's spouse's income, if the spouse lives in the same residence. Project directors may count the value

of shelter, food, and clothing, if provided at no cost by persons related to the applicant, enrollee, or spouse.

Direct Benefits are stipends, meals, transportation, annual physical examinations, volunteer insurance, recognition and uniforms included in the budget as *Volunteer Expenses*.

Director is the Director of ACTION.

Exceptional Needs are one or more physical, emotional, or mental health limitation(s).

Federally recognized Indian tribal government means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in section 3 of the Alaska Native Claims Settlement Act, 85 Stat. 688) certified by the Secretary of Interior as eligible for the special programs and services provided through the Bureau of Indian Affairs.

Handbook is the SCP Handbook No. 4405.91, which contains policies for implementing these regulations.

Handicapped is a person or persons having physical or mental impairments that substantially limit one or more major life activities.

Hard-to-reach individuals are those who are physically or socially isolated because of factors such as language, disability, or inadequate transportation.

Letter of Agreement is a written agreement between a volunteer station, the project sponsor and the adult served or the person legally responsible for the adult. It authorizes the assignment of a Senior Companion in the client's home, defines Senior Companion activities and delineates the specific arrangements for supervision.

Memorandum of Understanding is a written statement prepared and signed by the Senior Companion sponsor and the volunteer station which identifies project requirements, working relationships and mutual responsibilities.

OAVP refers to the Older American Volunteer Programs, which include: The Senior Companion Program, the Foster Grandparent Program, and the Retired Senior Volunteer Program.

Project is the locally planned and implemented Senior Companion Program activity as agreed upon between ACTION and the sponsor.

Service Area is a geographically defined area in which Senior Companions are recruited, enrolled, and placed on assignments.

Service Schedule is the 20 hours per week that a Senior Companion serves.

Sponsor is a public agency or private nonprofit organization which is responsible for the operation of the Senior Companion project.

Stipend is a payment to Senior Companions to enable them to serve without cost to themselves.

United States and States means the several states, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa and the Trust Territory of the Pacific Islands.

Volunteer Station is a public agency, private nonprofit organization or proprietary health care agency or organization that accepts the responsibility for assignment and supervision of Senior Companions. Each volunteer station must be licensed or otherwise certified, when required, by the appropriate state or local government. Private homes are not volunteer stations.

[48 FR 26803, June 10, 1983, as amended at 59 FR 15122, Mar. 31, 1994]

§ 1207.1-3 Coordination.

The sponsor shall coordinate activities with project-related groups and individuals, including those representing government, industry, labor, volunteer organizations, programs for the aging, including State and Area Agencies on Aging, and other ACTION programs, to facilitate cooperation with existing or planned community services and to develop community support.

Subpart B—Project Development and Funding

§ 1207.2-1 Inquiries.

Inquiries regarding the Senior Companion Program application process, program criteria, or the availability of funds, should be directed to the ACTION State Office serving the inquirer's own state. ACTION headquarters office in Washington, DC will assist in directing inquiries to the appropriate State office.

ACTION

§ 1207.2-7

§ 1207.2-2 Local support.

An ACTION grant may be awarded to fund up to 90% of the cost of development and operation of a Senior Companion project. The sponsor is required to contribute at least 10% of the total project cost. Stipend payments in excess of the amount established by ACTION may not be included as part of the local support commitment. In exceptional circumstances the Director may approve assistance for more than 90% of the total project costs if:

(a) The project is located in an area where local resources are too limited to provide 10%; or

(b) A test project is determined to be of exceptional value, sufficient to warrant Federal support in excess of 90% of the total project cost.

§ 1207.2-3 Sponsor eligibility and solicitation of proposals.

(a) *Sponsor eligibility.* ACTION will award grants only to public agencies and private non-profit organizations in the United States which have the authority to accept and the capability to administer such grants.

(b) *Solicitation of proposals.* Any eligible organization may file an application for a grant. Applicants may also be solicited by ACTION pursuant to its objective of achieving equitable program resource distribution. Solicited applications are not assured of selection or approval and may have to compete with other solicited or unsolicited applications.

[48 FR 26803, June 10, 1983; 48 FR 44797, Sept. 30, 1983]

§ 1207.2-4 Project proposals.

(a) Applicants shall use standard forms prescribed by ACTION. ACTION State Offices will provide applicants with guidance and any additional instruction necessary to plan and budget proposed program activities.

(b) Agencies and organizations submitting grant applications must comply with provisions of Executive Order 12372, the "Intergovernmental Review of Federal Programs and Activities," as set forth in 45 Code of Federal Regulations (CFR) part 1233.

(c) A potential sponsor must submit one copy of an application for a new SCP project to the State Agency on

Aging, which has 45 days to review the application and make recommendations. The State Agency on Aging shall state in writing to ACTION its recommendations and reasons within this time period or will be considered to have waived its rights under this part.

§ 1207.2-5 Review of project proposals.

(a) The ACTION State Office for the applicant's state will review the grant application to ensure that program requirements are complied with and that required documentation has been attached.

(b) If not approved, the application will be returned to the applicant with explanation of ACTION's decision. The unsuccessful applicant may reapply when the inadequacy, if any, found in the application is resolved.

§ 1207.2-6 Awards.

(a) ACTION will, within funds available, award a grant in writing to those applicants whose grant proposals provide the best potential for serving the purpose of the program. The award will be documented by Notice of Grant Award (NGA).

(b) The parties to the NGA are ACTION and the sponsoring organization. The NGA will document the sponsor's commitment to fulfill specific programmatic objectives and financial obligations. It will document the extent of ACTION's obligation to provide financial support to the sponsor.

(c) A sponsor may receive a grant award for more than one OAVP project.

§ 1207.2-7 Grant management.

(a) Sponsors shall manage grants awarded to them in accordance with these regulations, ACTION Handbook 2650.2, entitled *Grants Management Handbook for Grantees*, and SCP Handbook No. 4405.91. A copy of each document will be furnished the sponsor at the time the initial grant is awarded.

(b) Project support provided under an ACTION grant shall be furnished at the lowest possible cost consistent with the effective operation of the project.

(c) Project costs for which ACTION funds are budgeted must be justified as being essential to project operation.

§ 1207.2-8 Suspension, termination and denial of refunding.

Grant suspension, termination and denial of refunding procedures are set forth in 45 CFR part 1206, chapter XII, and in ACTION Handbook 2650.2.

Subpart C—Project Operations

§ 1207.3-1 Sponsor responsibility.

The sponsor is responsible for all programmatic and fiscal aspects of the project and may not delegate or contract this responsibility to another entity. The sponsor has the responsibility to:

- (a) Employ, supervise and support a Project Director who will be directly responsible to the sponsor for the management of the project, including selection, training and supervision of project staff;
- (b) Provide for the recruitment, assignment, supervision and support of Senior Companions. Special efforts are to be made to recruit and assign persons from minority groups, handicapped and hard-to-reach individuals, and groups in the community which are underrepresented in the project. The sponsor will stress the recruitment and enrollment of persons not already volunteering;
- (c) Provide financial and in-kind support to fulfill the project's local share commitment;
- (d) Establish, orient, and support an independent SCP Advisory Council;
- (e) Provide the Senior Companions with not less than the minimum accident, personal liability, and excess auto liability insurance required by ACTION;
- (f) Provide for appropriate recognition of the Senior Companions and their activities;
- (g) Establish personnel practices, including provision of position descriptions for project staff, and service policies for Senior Companions, including grievance and appeal procedures for both volunteers and project staff;
- (h) Ensure compliance with ACTION requirements relating to non-discrimination, religious activity, political activity, lobbying, patronage toward persons related by blood or marriage, labor or anti-labor organization or related activities, nondisplacement

of employed workers, nonimpairment of contracts, and noncompensation for services;

(i) Maintain project records in accordance with generally accepted accounting practice and provide for the accurate and timely preparation and submission of reports required by ACTION;

(j) Develop Senior Companion service opportunities through volunteer stations;

(k) Obtain ACTION concurrence in the selection of volunteer stations prior to the placement of Senior Companions;

(l) Negotiate, prior to placement of Senior Companions; a written Memorandum of Understanding with each volunteer station, identifying sponsor responsibilities, volunteer station responsibilities, and joint responsibilities;

(m) Orient volunteer station staff to the program and its activities;

(n) Provide not less than 40 hours of pre-service orientation to the Senior Companions;

(o) Arrange group in-service training for Senior Companions for a minimum of four hours each month;

(p) Provide or arrange for direct benefits (insurance, meals, physical examinations, recognition, stipends, transportation, and uniforms, if needed) for the Senior Companions in a timely manner;

(q) Ensure provision for volunteer safety;

(r) Comply with program regulations, policies and procedures prescribed by ACTION;

(s) Ensure that appropriate liability insurance is maintained for owned, nonowned, or hired vehicles used in the project;

(t) Develop a realistic transportation plan for the project based on lowest cost transportation modes; and

(u) Conduct an annual appraisal of volunteers' performance and an annual review of volunteers' income eligibility.

(v) Assure that individuals whose income is at or below 100 percent of the poverty level receive special consideration for participation in the Program.

[48 FR 26803, June 10, 1983, as amended at 59 FR 15122, Mar. 31, 1994]

ACTION

§ 1207.3-4

§ 1207.3-2 Project staff.

(a) Project staff are employees of the sponsor and are subject to its personnel policies and practices.

(b) ACTION must concur in writing with the sponsor's selection of a project director before such person is employed or earns pay from grant funds.

(c) The SCP project director shall serve full time and may not be employed or serve concurrently in another capacity, paid or unpaid, during established working hours without prior approval from ACTION. This does not preclude participation of the project director in activities of related local agencies, boards or organizations for the purposes of coordination and facilitating achievement of project goals and objectives.

(d) Compensation levels for project staff, including wages, salaries and fringe benefits, should be comparable to like or similar positions in the sponsor organization and in the community.

§ 1207.3-3 Advisory Council.

An Advisory Council shall be established to advise and assist the project sponsor and staff. There shall be a separate Advisory Council for each Older American Volunteer project administered by the sponsor. When a small number of volunteers is enrolled or other special conditions prevail, this requirement may be waived by the Director of OAVP. The Advisory Council shall:

(a) Advise the project director in the formulation of local policy, planning, and the development of operational procedures and practices consistent with program policies;

(b) Assist the sponsor by promoting community support for the project, advise on personnel actions affecting volunteers and project staff, and assist in developing local financial and in-kind resources;

(c) Include in its membership, when available: Community, business and labor leaders, representatives from volunteer stations, public and private agencies, and persons specializing in the fields of aging and voluntarism. In addition, at least one-fourth of the Advisory Council shall be low-income per-

sons aged 60 or over. This group must include Senior Companions as voting members. The sponsor's chief executive or designee, one member of its governing board, and the project director should be members of the Advisory Council but may not be officers of the Advisory Council. The sponsor's chief executive and the project director may not be voting members. The member representing the sponsor's governing board may be a voting member. The provisions of section 1207.5-1, Non-discrimination, apply to the Advisory Council;

(d) Meet on a regular schedule and establish its own procedures, including election of officers and terms of office;

(e) Conduct an annual appraisal of project operation and submit a report to the sponsor, which shall be attached to the continuation grant application;

(f) Have an opportunity to advise the sponsor in advance on the selection or termination of the project director; and

(g) Ensure procedures are in effect to hear an appeal to actions affecting a Senior Companion adversely.

§ 1207.3-4 Volunteer station responsibility.

(a) Normally the volunteer station is an organization other than the sponsoring organization. The sponsor may function as a Senior Companion station only if the sponsor is: (1) A state organization administering a statewide Senior Companion project where the volunteer station is part of the state organization; (2) a federally-recognized Indian tribal government; or (3) in a sparsely populated area. In such sparsely populated areas, up to 10% of the enrolled volunteers may be placed directly by the sponsor.

(b) Volunteer station responsibilities include:

(1) Assisting with or arranging for volunteer transportation on or between assignments;

(2) Assisting in the provision of appropriate volunteer recognition;

(3) Developing and monitoring volunteer assignments, selecting adults to be served, supervising the volunteers, assisting the sponsor in matching volunteers to assignments and in providing

pre-service orientation and in-service training for the Senior Companions;

(4) Providing for volunteer safety;

(5) Keeping records and preparing reports required by the sponsor; and

(6) Signing, prior to the placement of Senior Companions, a Memorandum of Understanding with the sponsor establishing working relationships and mutual responsibilities, and detailing the responsibilities outlined above as well as other agreed upon responsibilities, including the particulars of the volunteers' supervision.

(i) When Senior Companions are to serve in private homes, the Memorandum of Understanding shall also require that the volunteer station obtain a Letter of Agreement from the person to be served, or the person legally responsible for that person, authorizing or requesting volunteer service in the home and indicating what specific activities are to be performed.

(ii) The Memorandum of Understanding is to be reviewed and, as appropriate, changed annually. The Memorandum may be amended at any time by mutual agreement and must be signed and dated annually to indicate that review and update, if needed, have been accomplished.

§ 1207.3-5 Senior Companions.

(a) *Eligibility.* (1) Senior Companions shall be 60 years of age or older, no longer in the regular work force, determined by a physical examination to be capable of serving adults with exceptional or special needs without detriment to either themselves or the adult served, and willing to accept supervision as required.

(2) Eligibility to be a Senior Companion may not be restricted on the basis of education, experience, citizenship, race, color, creed, belief, sex, national origin, handicap, or political affiliation.

(3) To be enrolled, a Senior Companion cannot have an annual income from all sources, after deducting allowable medical expenses, which exceeds ACTION's income eligibility guidelines for the state in which he or she resides. The ACTION income eligibility guideline for each state is 125 percent of the poverty line as set forth in section 625 of the Economic Opportunity Act of

1964, as amended by Pub. L. 92-424 (42 U.S.C. 2971d), except (i) in those primary metropolitan statistical areas (PMSA), metropolitan statistical areas (MSA) and nonmetropolitan counties identified by the Director as being higher in cost of living, as determined by application of the VISTA subsistence rates, in which case the guideline shall be 10 percent above that amount; and (ii) in Alaska, where the guideline may be waived by the ACTION State Director for individual locations if a project demonstrates that low-income individuals, in that location, are participating in the project. No Senior Companion currently participating in the Program, shall become ineligible as a result of this change in guidelines.

(4) Once enrolled, a Senior Companion shall remain eligible to serve and to receive a stipend as long as his or her annual income, after deducting allowable medical expenses, does not exceed the prescribed ACTION income eligibility guideline by 20 percent. Income eligibility shall be reviewed annually by the sponsor.

(5) Recruitment and selection of a Senior Companion may not be based on any requirement of employment experience or formal education.

(b) *Terms of service.* (1) Senior Companions serve a total of twenty hours a week, usually five days a week. Travel time between the volunteer's home and place of assignment may not be considered part of the service schedule and is not stipended. Travel time between individual assignments is a part of the service schedule. Meal time may be part of the service schedule only if meals are taken with the individual served, and the taking of meals together is deemed by the sponsor and the volunteer station to be beneficial to the person served.

(2) Senior Companions are volunteers, not employees, of the sponsor.

(c) *Direct benefits.* The total of direct benefits for Senior Companions, including stipends, insurance, transportation, meals, physical examinations, recognition, and uniforms if appropriate, shall be a sum equal to at least 90% of the amount of the ACTION Federal share of the grant. In exceptional circumstances, the Director may waive

ACTION

§ 1207.3-5

this requirement. Federal and non-federal resources can be used to make up this sum. Direct benefits may not be subject to any tax or charge or be treated as wages or compensation for the purposes of unemployment insurance, temporary disability, retirement, public assistance, or similar benefit payments or minimum wage laws. Direct benefits include:

(1) *Insurance.* Senior companions shall be provided with the ACTION specified minimum levels of accident insurance, personal liability insurance and, when appropriate, excess automobile liability insurance.

(i) *Accident insurance.* Accident insurance shall cover Senior Companions for personal injury during travel between their homes and places of assignment, during their volunteer service, during meal periods while serving as a volunteer, and while attending project-sponsored activities, such as recognition activities, orientation and Advisory Council meetings.

Protection shall be provided against claims in excess of any benefits or services for medical care or treatment available to the volunteer from other sources including:

- (A) Health insurance coverage;
- (B) Other hospital or medical service plans;
- (C) Any coverage under labor-management trustee plans, union welfare plans, employer organization plans, or employee benefit organization plans; and
- (D) Coverage under any governmental programs or coverage provided by any statute.

When benefits are provided in the form of services rather than by cash payments, the reasonable cash value of each service rendered shall be considered in determining the applicability of this provision. The benefits payable under a plan shall include the benefits that would have been payable had a claim been duly made therefor. The benefits payable shall be reduced to the extent necessary so that the sum of such reduced benefits and all the benefits provided for by any other plan shall not exceed the total expenses incurred by the volunteer.

(ii) *Personal liability insurance.* Protection shall be provided against

claims in excess of protection provided by other insurance.

(iii) *Excess automobile liability insurance.* Protection shall be provided against claims in excess of the greater of either:

(A) Liability insurance volunteers carry on their own automobiles, or

(B) The limits of the applicable state financial responsibility law, or

(C) In the absence of a state financial responsibility law, levels of protection to be determined by ACTION for each person, each accident, and for property damage.

Senior Companions who drive their personal vehicles to or on assignments or project related activities must maintain personal automobile liability insurance equal to or exceeding the levels established by paragraph (c)(1)(iii) (B) or (C) of this section.

(2) *Meals.* Within the limits of available resources and project policy, Senior Companions will be provided or will receive assistance with the cost of meals taken during their service schedule.

(3) *Physical examinations.* Senior Companions are required to have a physical examination prior to assignment and annually thereafter.

(4) *Appropriate recognition* will be provided for Senior Companions.

(5) *Stipends.* A Senior Companion will receive a stipend in an amount determined by ACTION and payable in regular installments. The minimum amount of the stipend is set by law and may be adjusted by the Director from time to time. When both the eligible husband and wife serve as a Foster Grandparent or Senior Companion, only one spouse shall be entitled to receive a stipend. Both spouses in such cases shall be entitled to other direct benefits. Only in cases where enrolled Foster Grandparents or Senior Companions marry, may each continue to receive a stipend.

(6) *Transportation.* Senior Companions shall be provided transportation or receive assistance with the cost of transportation to and from volunteer assignments and official project activities, including orientation, training, advisory council meetings and recognition events. Reimbursement will be within the limits of available resources

and project policy. Project funds may not be utilized to reimburse Senior Companions for transportation provided for or on behalf of clients.

[48 FR 26803, June 10, 1983, as amended at 59 FR 15122, Mar. 31, 1994]

§ 1207.3-6 Senior companion assignments.

(a) Assignments and activities must involve person-to-person relationships with the individuals served and may not include service to the volunteer station.

(b) Individuals served by Senior Companions must be adults, primarily older adults, who have one or more physical, emotional, or mental health limitations and are in need of assistance to achieve and maintain their highest level of independent living.

§ 1207.3-7 Non-stipended volunteers

(a) *Purpose:* Projects are encouraged to enroll persons aged 60 and over, who are not low-income, as non-stipended volunteers in order to:

(1) Open opportunities for and tap the unused resources of older Americans, and

(2) Expand needed services to unserved and underserved populations.

(b) *Conditions of Service:* (1) Over-income persons, age 60 or over, may not be enrolled in SCP projects as non-stipended volunteers in communities where a Retired Senior Volunteer Program (RSVP) project is available and the RSVP project is willing and able to assume the management role of placing the volunteer at an SCP volunteer station. When a Senior Companion project is contacted by an individual expressing an interest in serving as a non-stipended volunteer, the project shall contact the ACTION State Office for its determination as to whether:

(i) Enrollment in the project is appropriate,

(ii) The volunteer should be referred to an RSVP project that has agreed, in writing, to serve in the prescribed management role.

(2) Non-stipended volunteers serve under the following conditions:

(i) Their service must not supplant, replace, or displace any stipended volunteers.

(ii) No special privilege or status is granted or created among volunteers, stipended or non-stipended, and equal treatment is required.

(iii) Training, supervision, and other support services and direct benefits, other than the stipend, are available equally to all volunteers.

(iv) All regulations and requirements applicable to the program, with the exception listed in paragraph (b)(2)(vi) of this section, apply to all volunteers.

(v) Non-stipended volunteers may be placed in separate volunteer stations where warranted.

(vi) Non-stipended volunteers serving in SCP volunteer stations will be encouraged but not required to serve 20 hours per week and 50 weeks per year. Volunteers will maintain a close one-to-one relationship with clients, and will serve a minimum of two clients on a regular basis.

(vii) Non-stipended volunteers may contribute the cost of direct benefits.

(3) There are no requirements on either SCP or RSVP projects to enroll non-stipended volunteers. Implementation of these regulations by a local project may not be a factor in awarding new or renewal grants.

(c) *Funding:* No appropriated funds for SCP may be used to pay any cost, including any administrative cost, incurred in implementing these regulations. Such costs may be paid with:

(1) Funds received by the Director as unrestricted gifts.

(2) Funds received by the Director as gifts to pay such costs.

(3) Funds contributed by non-stipended volunteers.

(4) Locally-generated contributions in excess of the amount required by law.

[52 FR 32133, Aug. 26, 1987]

Subpart D—Non-ACTION Funded Projects

§ 1207.4-1 Memorandum of agreement.

(a) If an eligible agency or organization wishes to sponsor a project without ACTION funding, and wishes to receive technical assistance and materials from ACTION, it must sign a

ACTION

§ 1207.5-1

Memorandum of Agreement with ACTION identifying mutual responsibilities and certifying its intent to comply with ACTION regulations.

(b) A non-ACTION funded project sponsor's noncompliance with the Memorandum of Agreement may result in suspension or termination of ACTION's technical assistance to the project.

(c) Termination of the agreement by either the project sponsor or ACTION will result in loss of the tax exempt status of volunteer direct benefits allowable to Senior Companions and loss of coverage by the statutory provision that receipt of the stipend will not affect the volunteers' eligibility for any governmental assistance.

(d) Entry into a Memorandum of Agreement with a sponsoring agency which does not receive ACTION funds will not, under any circumstances, create a financial obligation on the part of ACTION for costs associated with the project including increases in required payments to volunteers which may result from changes in the Act or in ACTION regulations.

Subpart E—Sanctions and Legal Representation

§ 1207.5-1 Special limitations.

(a) *Political activities.* (1) No part of any grant shall be used to finance, directly or indirectly, any activity to influence the outcome of any election to public office, or any voter registration activity.

(2) No project shall be conducted in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such project (i) any partisan or nonpartisan political activity associated with a candidate, or contending faction or group, in an election or, (ii) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (iii) any voter registration activity.

(3) No Senior Companion or employee of a sponsor or volunteer station may take any action, when serving in such capacity, with respect to a partisan or nonpartisan political activity that

would result in the identification or apparent identification of the Senior Companion Program with such activity.

(4) No grant funds may be used by the sponsor in any activity for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition, except

(i) In any case in which a legislative body, a committee of a legislative body, or a member of a legislative body requests a Senior Companion, a sponsor chief executive, his or her designee, or project staff to draft, review or testify regarding measures or to make representation to such legislative body, committee or member, or (ii) In connection with an authorization or appropriations measure directly affecting the operation of the Senior Companion Program.

Prohibitions on Electoral and Lobbying Activities are fully set forth in 45 CFR part 1226 and in ACTION Handbook 2650.2.

(b) *Restrictions on State or local government employees.* If the sponsor is a State or local government agency which received a grant from ACTION, certain restrictions contained in chapter 15 of title 5 of the United States Code are applicable. They are related to persons who are principally employed in activities associated with the project. The restrictions are not applicable to employees of educational or research institutions. An employee subject to these restrictions may not:

(1) Use his/her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office; or

(2) Directly or indirectly coerce, attempt to coerce, command or advise a State or local officer or employee to pay, lend, or contribute anything of value to a political party, committee, organization, agency, or person for a political purpose; or

(3) Be a candidate for elective office, except in a nonpartisan election. "Nonpartisan election" means an election at which none of the candidates is to be nominated or elected as representing a political party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected.

(c) *Religious activities.* Senior Companions and project staff funded by ACTION shall not give religious instruction, conduct worship services or engage in any form of proselytization as part of their duties.

(d) *Nondiscrimination.* For purposes of this subpart, and for purposes of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 d *et seq.*), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the Age Discrimination Act of 1975 (Pub. L. 94-135, title III; 42 U.S.C. 6101 *et seq.*), any program, project, or activity to which volunteers are assigned under this Act shall be deemed to be receiving federal financial assistance.

(1) No person with responsibility in the operation of a project shall discriminate with respect to any activity or program because of race, creed, belief, color, national origin, sex, age, handicap, or political affiliation.

(2) Sponsors are required to take affirmative action to overcome the effects of prior discrimination. Even in the absence of prior discrimination, a sponsor may take affirmative action to overcome conditions which resulted in limiting participation.

(3) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with a Senior Companion project.

(e) *Labor and anti-labor activity.* No grant funds shall be directly or indirectly utilized to finance labor or anti-labor organization or related activity.

(f) *Nondisplacement of employed workers.* A Senior Companion may not perform any service or duty or engage in any activity which would otherwise be performed by an employed worker or which would supplant the hiring of employed workers.

(g) *Nonimpairment of contracts.* A Senior Companion may not perform any service, or duty, or engage in any activity which impairs an existing contract for service. The term "contract for service" includes but is not limited to contracts, understandings, and arrangements, either written or oral, to provide professional, managerial, technical, or administrative services.

(h) *Noncompensation for services.* No person, organization, or agency shall request or receive any compensation for services of Senior Companions.

(i) *Nepotism.* Persons selected for projects staff positions may not be related by blood or marriage to other project staff, sponsor staff or officers, or members of the sponsor Board of Directors, unless there is concurrence by the Advisory Council, with notification to ACTION.

(j) *Volunteer separation.* A sponsor may separate a volunteer for cause, including, but not limited to, extensive or unauthorized absences, misconduct, inability to perform assignments or having income in excess of the eligibility level established by ACTION.

§ 1207.5-2 Legal representation.

Counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of a Senior Companion may be paid in a criminal, civil or administrative proceeding, when such a proceeding arises directly out of the performance of the Senior Companion activities. 45 CFR part 1220 establishes the circumstances under which ACTION may pay such expenses.

PART 1208—FOSTER GRANDPARENT PROGRAM

Subpart A—General

Sec.

1208.1-1 Purpose of the program.

1208.1-2 Definitions.

1208.1-3 Coordination.

Subpart B—Project Development and Funding

1208.2-1 Inquiries.

1208.2-2 Local support.

1208.2-3 Sponsor eligibility and solicitation of proposals.

1208.2-4 Project proposals.

1208.2-5 Review of project proposals.

1208.2-6 Awards.

1208.2-7 Grant management.

1208.2-8 Suspension, termination and denial of refunding.

Subpart C—Project Operations

1208.3-1 Sponsor responsibility.

1208.3-2 Project staff.

1208.3-3 Advisory Council.